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Ralph E. Jocke
Patent
&
Trademark Law

January 12, 2006

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 3628
Patent Examiner David Vincent

Re: **Application No.:** 09/414,290
Confirmation No.: 3095
Appellants: Jeffery M. Enright, et al.
Title: Remote Viewing of ATM Transaction Records
Docket No.: D-1112 R1

Sir:

In accordance with 37 CFR § 41.33(d)(1), please find enclosed a declaration pursuant to 37 CFR § 1.131. Also enclosed are Appellants' Remarks with regard to the declaration, and a petition for a one month extension of time.

Please charge the fee required for the extension of time (\$120), and any other fee due, to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 this 12th day of January 2006.

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D-1112 R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-------------------------------------|---|-----------------|
| In re Application of |) | |
| Jeffery M. Enright, et al. |) | |
| |) | |
| Application No.: 09/414,290 |) | Art Unit 3628 |
| |) | |
| Confirmation No.: 3095 |) | |
| |) | |
| Filed: October 7, 1999 |) | Patent Examiner |
| |) | David Vincent |
| |) | |
| Title: Remote Viewing of ATM |) | |
| Transaction Records |) | |

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly enter Appellants' remarks without prejudice as follows:

Remarks

Reconsideration is respectfully requested. In accordance with 37 CFR § 41.33(d)(1) a declaration pursuant to 37 CFR § 1.131 is attached herewith. The declaration was not earlier presented because Appellants' representative was, until recently, unaware of the evidence that is referenced in the declaration. The declaration is necessary for several reasons, e.g., it overcomes rejections, it places the application in better condition for appeal purposes, it removes issues on appeal, and it places the application in condition for allowance. Appellants respectfully submit that the declaratory evidence overcomes all rejections under appeal.

Hackett does not qualify as prior art under 35 U.S.C. § 102(e)

The Hackett reference (WO 98/11714) does not qualify as prior art to the recited invention under 35 U.S.C. § 102(e). For example, Hackett has a filing date prior to the November 29, 2000 (AIPA) amendment to 35 U.S.C. § 102(e). Nor is Hackett a U.S. patent. See MPEP § 706.02(f)(1) and § 2136.03. Thus, the 35 U.S.C. § 102(e) rejections based on Hackett are moot.

Hackett has a PCT publication date of March 19, 1998. Appellants claim priority to U.S. patent application 60/103,731 filed on October 9, 1998. At best, Hackett could only qualify as prior art to the recited invention under 35 U.S.C. § 102(a).

Hackett does not qualify as prior art under 35 U.S.C. § 102(a)

Appellants' declaration pursuant to 37 CFR § 1.131 swears behind Hackett's publication date. That is, the declaration establishes invention of the rejected independent claims prior to the effective date of Hackett. It follows that Hackett does not qualify as prior art to the recited invention under 35 U.S.C. § 102(a).

Conclusion

Hackett does not constitute prior art to any of the recited independent claims. Hackett is relied upon in the rejections of all the independent claims. All dependent claims rely on these independent claims. Thus, all of the rejections are moot. Appellants respectfully submit that the application is in condition for allowance.

The undersigned is willing to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



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